

## **LICENSING PANEL**

**WEDNESDAY, 6 DECEMBER 2017**

PRESENT:- Councillors Alan Bishop, Carol Shelley and Vera Tomlinson

Apologies for absence were received from Councillors .

### **86. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

### **87. Application to the Review Premises Licence in respect of Baileys News Agent, 2 Cheney Manor Road, Swindon, SN2 2NS**

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application for a Review of the Premises Licence for Bailey's Newsagents, 2 Ferndale Road, Swindon, (b) written representations from Wiltshire Police in support of the review, (c) oral submissions in support of the review by PC Michael Dffin and PC Paul Bezzent, (d) oral submissions from Mr Sunni Thakrar (brother of the Premises Licence Holder) and Mr Nayan Thakrar (Premises Licence Holder) opposing the application for review, (e) questions from Members to the Police, Premises Licence Holder and officers and answers received and (f) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Statement of Licensing Policy.

The Council's Licensing Manager introduced the report noting that:

- The application for the review of the Premises Licence had been brought by the Police under the Crime and Disorder Licensing Objective.
- That the original hearing held on 30<sup>th</sup> October 2017 had been adjourned in order to allow the Premises Licence Holder to seek legal advice.
- That since the previous meeting the Police had submitted an additional statement dated 2<sup>nd</sup> November 2017.
- The options available to the Panel in reaching its decision.
- That Police were the only party to the review.
- Two statements from the Council's Trading were attached as part of the representations received from the Police.
- Trading Standards were not part of the review but might be called as a witness by the Police.

The Police case for a review and a summary of points raised can be broadly summarised as follows:

- Mr Nayankumar Nanji Thakrar was both the Premises Licence Holder and Designated Premises Supervisor.
- On 21<sup>st</sup> July 2017 police attended the premises and purchased a packet of Mayfair cigarettes in a test purchase. These were taken from under the counter and tests showed they were counterfeit goods.
- The sale of counterfeit cigarettes on 21<sup>st</sup> July 2017 was made by Mr Gurman

Bajaas.

- On 27<sup>th</sup> July 2017 a visit by the police resulted in the seizure of 15 packets of counterfeit cigarettes, 5 packets of foreign label tobacco and approximately £3,000 of suspected stolen goods.
- Mr Thakkar attended the premises on a daily basis when in the country.
- In a police interview Mr Bajaas admitted to the sale of illegal tobacco and confirmed the goods seized on 27<sup>th</sup> July were stolen.
- The illicit tobacco seized was in the wrong packaging and was non UK duty paid.
- Mr Bajaas continues to work at the premises.
- The storeroom has little stock in it.
- There were additional issues at the shop such as the incorrect storage of fuel.
- On 2<sup>nd</sup> November 2017 the Police were called to attend Waitrose to deal with a theft. He shoplifter was found in possession of a receipt from Bailey's Newsagents. On the reverse of the receipt was Mr Thakkar's mobile telephone number and a shopping list of items which led the police to believe that Mr Thakkar was involved in handling stolen goods and encouraging theft.
- Shoplifting had a major and detrimental effect on retail businesses and was a considerable problem in Swindon.
- Shops selling stolen or illicit goods, in addition to breaking the law, were also creating unfair competition and encouraged more theft.

Responses to questions to Wiltshire Police from Panel Members and the Premises Licence Holder and his representative can be broadly summarised as:

- Whilst the shoplifter didn't admit who she was stealing the goods for the balance of probability was that they were for delivery to Bailey's Newsagents (she had the telephone number of the Designated Premises Supervisor with the list of items and stolen goods had been seized from the premises).
- The offence of handling stolen goods was the result of those goods being displayed on the shelves in the shop.
- Mr Thakkar had not been interviewed by the Police but Mr Bajaas had.
- Mr Thakkar had not been charged although he had allowed stolen goods and illicit tobacco on his premises.
- The police could not confirm whether Mr Thakkar was in the country at the time of the offences.
- Mr Bajaas was in day to day contact with Mr Thakkar and was running the business at the premises.
- Mr Bajaas told the police he was employing Mr Thakkar.
- Trading Standards confirmed that the tobacco seized was counterfeit.
- It was not possible to identify exactly where the goods seized had been stolen from.

The Premises Licence Holder's case for opposing the review and a summary of points raised can be broadly summarised as follows:

- That legal advice had been received but that it was too expensive to have a legal representative attend the hearing.
- The business had been sold to Mr Bajaas but not all the money had been

paid.

- Mr Thakrar had believed that Mr Bajaas had sent the appropriate paperwork to Swindon Borough Council to transfer the Premises Licence into his name and to confirm Mr Bajaas as the Designated Premises Supervisor. This paperwork had never been submitted.
- Mr Thakrar was the landlord of Bailey's Newsagents and was out of the country on a regular basis.
- Mr Thakrar visited the shop regularly but only to help the staff.
- Mr Thakrar did not know about the sale of illicit cigarettes or of the stolen goods found at the premises.
- Mr Thakrar hadn't seen the police evidence in respect of the illegal tobacco and stolen goods.
- All shops were struggling which was probably why Mr Bajaas sold illicit tobacco. Shopkeepers were buying goods on special offer from supermarkets to sell in their shops.
- Only one bottle at the premises had a security tag on it.
- The shoplifter having a receipt from the shop and Mr Thakrar's telephone number did not mean that he was in any way involved in the shoplifting.
- Mr Bajaas still owed Mr Thakrar money and was going to return to London. Because of this a new buyer had been found for the shop.
- Mr Bajass had accepted responsibility for the goods seized at the premises.
- Mr Thakrar was innocent but should have checked on the transfer of the premises licence.
- Mr Thakrar would be willing to accept a suspension although Mr Bajaas was responsible.

Responses to questions to the Premises Licence Holder from Panel Members and the Police can be broadly summarised as:

- Staff were currently running the shop and Mr Bajaas was not in charge of daily activities.
- Mr Bajaas paid the staff's wages.
- Mr Thakrar did not know why his telephone number was on the receipt found in the possession of the shoplifter.

Resolved - That, having listened to and carefully considered all of the evidence and submissions put forward by the police and the management of Bailey's Newsagents, 2 Ferndale Road, Swindon the Panel reached the following conclusions:

The Police had provided compelling evidence of breaches of the failure of the management of Bailey's Newsagents to uphold the Prevention of Crime and Disorder Licensing Objective. There was evidence of the storage and the display for sale of stolen goods and the sale of illegal and non-duty paid tobacco and poor management relating to the premises.

Having considered the evidence given by the management of Bailey's Newsagents the Panel was not satisfied that any compelling evidence was put forward that the current management would resolve the issues being experienced at the premises.

The Panel conscious of its duty to ensure that the licensing objectives are met, and

having regard to the Secretary of State's Guidance, and in particular paragraphs 11.27 and 11.28, decided that the Premises Licence should be revoked.

### Reasons

1. The Management of Bailey's Newsagent did not dispute that 5 packets of illegal and non-duty tobacco, 15 packets of counterfeit cigarettes and stolen goods including alcohol, to the approximate value of £3,000, was being stored on the premises and being displayed for sale.
2. The Panel was satisfied from the evidence of the Police and Trading Standards Team that illegal and non-duty paid tobacco was kept in plain view of all staff and available for sale by them.
3. The Panel heard evidence from management that Mr Bajaas was still heavily involved in the day to day running of the premises, including paying staff wages for five weeks after the initial hearing.
4. The Panel was satisfied that there was a lack of supervision in the day to day running of the premises. This was supported by Mr Thakrar's lack of knowledge of who was the Premises Licence Holder and Designated Premises Supervisor as well as his evidence that he was regularly out of the country.
5. The Panel was not satisfied as to the nature of the business relationship between Mr Thakrar and Mr Bajaas and given the evidence of Mr Thakrar that he attended the premises on a regular basis to "help out" and the continuing role of Mr Bajaas in managing the premises.
6. The Panel noted that no concrete measures had been taken to uphold the Licensing Objectives, or prevent a re-occurrence of illegal activity given that Mr Bajass continued to operate the business.
7. The Panel heard evidence that there were on-going negotiations to sell the premises to a third party, however no evidence as to the sale, for instance through written documentation of an intention to buy, the timescales involved, or the buyer involved was presented to the Panel.
8. The Panel had no faith that if the Premises Licence was left in place or suspended that present management understood their legal responsibilities or had the will to put in place appropriate improvements to management processes to prevent future issues arising.
9. The Panel noted that the licence holder had not been interviewed or charged by the police in relation to these offences but considered that there was a lack of managerial oversight.

The Chair reminded both parties that they had the right of appeal to the Magistrates Court and that an application for any such appeal should be made within 21 days.